

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

## UNITED STATES DISTRICT COURT

for the

Western District of PennsylvaniaPittsburgh Division

Case No.

2:21-cv-870

(to be filled in by the Clerk's Office)

Justin M. Miller

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

COW - Laura Williams  
SGT - Gillespie  
C.O. - Wagner  
Megan Lebakken - MHS

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

RECEIVED

JUL 12 2021

CLERK, U.S. DISTRICT COURT  
 FOR THE WESTERN DISTRICT  
 OF PENNSYLVANIA

## COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

## NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

**I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Justin M. Miller  
 All other names by which  
 you have been known: —  
 ID Number DOC NO- 163590  
 Current Institution Allegheny County Jail  
 Address 950 2nd Ave.  
Pittsburgh PA 15219  
City State Zip Code

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

**Defendant No. 1**

Name Laura Williams  
 Job or Title (*if known*) Chief Deputy Warden of Medical Services  
 Shield Number \_\_\_\_\_  
 Employer Allegheny County Jail  
 Address 950 2nd Ave  
Pittsburgh PA 15219  
City State Zip Code  
☒ Individual capacity ☒ Official capacity

**Defendant No. 2**

Name Gillespie  
 Job or Title (*if known*) Sargeant  
 Shield Number \_\_\_\_\_  
 Employer Allegheny County Jail  
 Address 950 2nd Ave  
Pittsburgh PA 15219  
City State Zip Code  
☒ Individual capacity ☒ Official capacity

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## Defendant No. 3

Name

Wagner

Job or Title (if known)

Corrections Officer

Shield Number

Employer

Allegheny County Jail

Address

950 Second Ave

Pittsburgh  
CityPA  
State15219  
Zip Code☒ Individual capacity☒ Official capacity

## Defendant No. 4

Name

Megan Lebakken

Job or Title (if known)

Mental Health Specialist

Shield Number

Employer

Allegheny County Jail

Address

950 Second Ave

Pittsburgh  
CityPA  
State15219  
Zip Code☒ Individual capacity☒ Official capacity

## II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

8<sup>th</sup> Amendment, 14<sup>th</sup> Amendment

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

*See Attached p. 1, 1A*

### III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- ☒ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (*explain*) \_\_\_\_\_

### IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

*N/A*

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

*Claim No 1 - Allegheny County Jail - 12/12/20 to 12/14/20*  
*Claim No 2 - Allegheny County Jail - 12/12/20 to 12/18/20*

1

Defendant - CDW Laura Williams

Laura Williams is a county employee, employed by ACJ, which is overseen by Allegheny County officials in Pennsylvania. She is head of all Healthcare Services. She helps define policies within the ACJ and oversees treatments and issues within these departments. She responds to medical codes when appropriate and helps define how individual situations are handled.

Defendant - SGT. Gillespie

SGT. Gillespie is a county employee, employed by the ACJ, which is overseen by Allegheny County officials in Pennsylvania. He is a Sargeant trained to respond to issues within the ACJ and report situations to higher ranking staff if needed. He is trained on policies and procedures implemented by the ACJ.

Defendant - C.O. Wagner

C.O. Wagner is a county employee, employed by the ACJ, which is overseen by Allegheny County officials in Pennsylvania. He is trained to respond to inmates and relay medical and mental health needs to the appropriate staff. He is trained on policies and procedures by ACJ.

1A

Defendant - MHS Megan Lebakken

Megan Lebakken is an employee within the ACT as a Mental Health Specialist. She responds to the needs of mental health patients or any inmate needing assistance with mental health. She can alert medical staff, doctors, and other employees of ACT staff over concerns of an inmate. She is trained on policies and procedures within the ACT.

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C. What date and approximate time did the events giving rise to your claim(s) occur?

Claim 1 - 12/12/20 at 1:00pm to 12/14/20 at 11:00am

Claim 2 - 12/12/20 at 11:30am to 12/18/20 at 5:30pm

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

See Attached - p. 2, 2A, 2B, 2C, 2D, 2E

## V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

No Injuries

## VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Monetary Damages - \$ 50,000.00

Punitive Damages - These violations were done by intentionally neglecting to do the jobs assigned to them which resulted in these civil rights violations. Some of these acts were done with malicious behavior.

Injunctive Relief - To be safe from future civil rights violations.

2

### Claim 1 - Suicide Watch Policy

On 12-12-20 while housed on Pod BE cell 208 in solitary confinement I alerted correctional officers I was suicidal. At that point Michelle K. the mental health therapist and SGT. Gillespie responded. I talked to Michelle K. and SGT. Gillespie that I was suicidal and didn't feel safe with myself. I'm a mental health patient within the jail being treated for anxiety disorder and PTSD, I'm on various medications for this. SGT. Gillespie then had me dressed out into a suicide gown and had my cell 208 cleared of all items and told me "there was no room on mental health Pods 5C or 5D and its my fault I became suicidal", I will be staying in solitary. CPW Laura Williams was notified of this due to her being in charge of all Healthcare Services. Its in my medical records that Michelle K MHS tried to get me moved to the appropriate Pod 5C for observation twice. There was no observation camera in my cell, there is no mental health staff present in solitary, or 15 minute suicide watch rounds. The call button is never answered, I was kept there against ACT suicide watch policy. At 8:00pm I alerted SGT. Gillespie I was having chest pains and alerted C.O. Kessler as well. Continued p2A



2A

## Continued Claim 1 PG. 2

No 15 minute suicide watch rounds were being done. Medical response time wasn't until 4:15pm. At 4:30pm there still wasn't any 15 minute rounds being completed on time. At 8:00pm I asked for mental health and medical that I was having chest pains. Medical came at 8:55pm, which I asked for help that no mental health was available and that no 15 minute rounds were being done.

On 12-13-20, 7x3 shift guards were not doing 15 minute suicide watch rounds. At 7:00am I asked for medical, for chest pains, there response time 9:00am. CDW Laura Williams is involved in making sure response times for chest pains is in the appropriate policy times, which 2 hours later is not appropriate and against policy.

At 9:30am the Psychiatrist came to discuss my suicidal thoughts. She asked if I felt safe with my access to help, I told her I didn't because staff wasn't answering the call button or doing 15 minute rounds. She stated that she would alert Laura Williams. At 3:00pm I asked for Mental Health and Medical that I was having chest pains. Medical response time was 4:30pm and mental health never came. Continued p. 2B

2B

## Continued Claim 1 p. 2A

They have an unwritten policy of ignoring pleadings for help. At 11:00pm I asked C.O. Beeler for mental health and medical for chest pains. At 11:20pm Darlene from mental health came, I stated "I don't feel safe in here and I'm being mistreated and I need to talk", she stated "your fine" and left. At 11:40pm medical came to do an ekg and do blood pressure check. My blood pressure was 145/101 and 133/104. No medication was given when I said my blood pressures been bothering me. On 12-14-20 the 7x3 shift is still not doing 15 minute suicide watch rounds. At 8:00am I was having chest pains and asked for medical, response time was 9:00am, my blood pressure was 148/96. At 9:00am I asked staff for mental health. There response time was 11:00am. I was seen by Thomas Patts the Psychiatrist to remove me from suicide watch. During this time my life was put in danger and ACT suicide watch policy was violated by CNW Laura Williams and SGT. Gillespie when no effort was made to house me in the proper Mental Health unit.

Continued Claim 2 p. 2C

2C

## Claim 2 Hunger Strike Policy

While in solitary confinement Pod 8E cell 208 on 12-12-20 at 11:30am I refused meal 1 of the hunger strike I went on. At 3:45pm I refused meal 2. On 12-13-20 at 6:30am I refused meal 3. At 11:30am I refused meal 4. At 3:30pm I refused meal 5. On 12-14-20 at 6:30am I refused meal 6. At 11:30am I refused meal 7. At 4:00pm I refused meal 8. On 12-15-20 at 6:50am I refused meal 9, after refusal of meal 9 ACT policy is to move you to 5C or 5D for medical observation. This was not done. At 11:35am I refused meal 10. At 4:00pm I refused meal 11. Around 4:15pm another inmate on a hunger strike, Jeff Bauer was moved into my cell 208. Around 5:00pm my water and toilet were shut off from correctional officer's stating there higher ups told them to do this. Jeff Bauer is my witness to this. This is an unwritten policy to "break inmates". This hungerstrike is overseen by COW Laura Williams being that she is incharge of all healthcare Services. At 7:30pm I was told I would be moved with my cell mate Jeff Bauer to pod 5C or 5D for observation. Around 8:30pm I was moved to pod 5C cell 1. On 12-16-20 I refused meal 12. Continued p. 20

20

Continued Claim 2 p. 2C

Throughout the day I asked Psychiatrist Thomas Patt I needed help and various nurse's I needed medical. Their response was "you are on a hunger strike we can't speak with you". I asked C.O. Kelly to call medical for chest pains and bloodsugar check and they were denied. At 11:45 am I refused meal 13. At 4:00 pm I refused meal 14. On 12-17-20 around 12:30 am I was throwing up when next I remember waking up on the ground, which is on the cell observation camera and no help came. I asked the night guard for medical and he said he can't call due to I'm on a hunger strike. Around 7:20 am I refused meal 15. Around 10:00 am Major Smith came to talk to me about the hunger strike. I told him what happened with the suicide watch policy and I was being refused medical and mental health. He said he would let me know what he could find out. I never received an answer. At 11:45 am I refused meal 16. At 4:00 pm I refused meal 17. On 12-18-20 at 7:15 am I refused meal 18. Around 9:30 am I was moved to Pod 50 cell 28. Which is another observation cell with camera right next to C.O.'s desk. Continued p. 2E

2E

## Continued Claim 2 p. 20

C.O. Wagner was the 7x3 shift officer and MHS Megan Lebakken was present the majority of the shift. My water and toilet were off upon arrival to cell 28. I asked C.O. Wagner for water and that it was off along with the toilet. He said "that's our policy is to shut both off and no you can't have water". I screamed out to Megan Lebakken MHS for help and to come talk to me. I asked her to contact CDU Laura Williams. She told me she wouldn't do either. She sat there the whole shift knowing I'm a mental health patient from prior engagements and that my water and toilet were off and refused me help. Around 12:00pm I refused meal 19. I continued to ask for help and for C.O. Wagner to call a sergeant or medical and he refused. I ended the hunger strike at 5:00pm for fear of my life. I returned to cell 208 in solitary confinement where my cell mate Jeff Bauer stated he was in cell 28 on SD before me and C.O. Wagner shut his water off too. They violated policy and put my life in danger.

**VII. Exhaustion of Administrative Remedies Administrative Procedures**

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Allegheny County Jail

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

claim 1  
claim 2

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- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

Allegheny County Jail  
Grievance Box POD 80

2. What did you claim in your grievance?

See Attached p. 3, 3A, 3B

3. What was the result, if any?

No Result

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

See Attached p. 4

p. 3

### Grievance 1 - Complaint Category - Mental Health

On 12-12-20 to 12-14-20 I was housed on BE cell 208 in a suicide gown after it was alerted to Michelle K. MHS and SGT. Gillespie I was suicidal. I was kept in RHU instead of being moved to a mental health pod for observation. There was no 15 min observation rounds done or documented. Multiple alerts were put in my medical report to move me to 5C, which was never done. I had no access to mental health or medical, my call button was ignored or I was told they would refuse to call. My life was in danger being I was not mentally sound at the time. This violated jail policy as well as my 8th and 14th amendments. This issue needs resolved due to the danger of putting my life in jeopardy.

### Grievance 2 - Complaint Category - Jail procedure

On 12-15-20 in RHU BE cell 208 I was on a hunger strike due to not receiving medical attention. At 6:50am I refused meal 9. At 11:35am I refused meal 10 and at 4:00pm I refused meal 11. Policy states after meal 19 I'm to be transferred for medical observation to a pod with the correct staff. Instead my water was shut off and toilet in RHU and I was not transferred until later that night around 9:00pm. Continued p. 3A



p. 3A

## Continued Grievance 2 p. 3

Policy was broken and my life was put in imminent danger. My 8<sup>th</sup> and 14<sup>th</sup> amendments were violated due to this punishment. This issue needs to be resolved so it puts no other lives as well as my own in danger.

## Grievance 3 - Complaint Category - Medical

My 8<sup>th</sup> and 14<sup>th</sup> amendments were violated. Between 12-15-20 to 12-18-20 I was on SC/SD for a hunger strike. My water and toilet were shut off. I was denied blood sugar checks, blood pressure checks, or any help. I was denied by nurse's, PA's, and mental health. One in particular who kept telling me she didn't care was Megan Lebakken. They said they were told due to a hunger strike I could not receive help. This is against policy and my life was put in danger. I'm seeking monetary damages. There can be discussed with my attorney.

## Grievance 4 - Complaint Category - Staff Conduct

My 8<sup>th</sup> and 14<sup>th</sup> amendment rights were violated. I was on Pop SD from 12-17-20 to 12-18-20. C.O Wagner shut my water and toilet off in cell 28 while I was on a hunger strike. Continued p. 3B

p.3B

Continued Grievance 4 p.3A

Stating "I'll fucking break you". I was denied mental health and medical from him, and denied toilet paper, soap, and toothbrush. I had to urinate and defecate on top of each other. He put my life in danger. I'm seeking monetary damages.

Grievance 5 - Complaint Category - Mental Health

On 12-17-20 and 12-18-20 my 14th and 8th Amendment rights were violated during this time. I was on a hunger strike and placed on pod 5-D cell 2B. I repeatedly pleaded for help from MHS Megan Lebakken who was at the C.O. desk with C.O. Wagner who had shut my toilet and water off to break me. She said she was ignoring me due to I was on a hunger strike. I'm a mental health patient within this facility. She knows I just got off suicide watch and allowed me to suffer. To resolve this issue she needs to be fired and I need paid monetary damages.

4

1. Per ACT Grievance instructions "you may not file an appeal until a complaint has been answered",

2. The grievance process is as far as I can take it per ACT handbook and ACT grievance rules.

Grievance 3, 4, 5 are all written on inmate requests due to the ACT removing all paper forms of grievances.

### Staff Conversations

12-20-20 - After returning back to RITV cell 208 The Warden Orlando Harper did a round at 12:00pm and I alerted him to everything that happen per both my claims. I had a cellmate Jeff Bauer as a witness to that conversation.

12-17-20 Major Smith came to see me while on a hunger strike on Pop 5C cell 1. I let him know what happened to that point on both claims

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F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

N/A

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2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

N/A

---

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

See Attached Exhibits 1, 2, 3, 4, 5

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*(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)*

#### VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

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- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) \_\_\_\_\_

Defendant(s) \_\_\_\_\_

2. Court *(if federal court, name the district; if state court, name the county and State)*

\_\_\_\_\_

3. Docket or index number

\_\_\_\_\_

4. Name of Judge assigned to your case

\_\_\_\_\_

5. Approximate date of filing lawsuit

\_\_\_\_\_

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. \_\_\_\_\_

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

\_\_\_\_\_

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

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☐ Yes☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) \_\_\_\_\_

Defendant(s) \_\_\_\_\_

2. Court *(if federal court, name the district; if state court, name the county and State)*

\_\_\_\_\_

3. Docket or index number

\_\_\_\_\_

4. Name of Judge assigned to your case

\_\_\_\_\_

5. Approximate date of filing lawsuit

\_\_\_\_\_

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition \_\_\_\_\_

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

\_\_\_\_\_

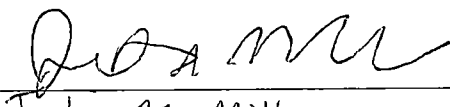
**IX. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 7-5-21

Signature of Plaintiff: 

Printed Name of Plaintiff: Justin M. Miller

Prison Identification #: DOC-163590

Prison Address: 950 2nd Ave  
Pittsburgh PA 15219  
City State Zip Code

**B. For Attorneys**

Date of signing: \_\_\_\_\_

Signature of Attorney: \_\_\_\_\_

Printed Name of Attorney: \_\_\_\_\_

Bar Number: \_\_\_\_\_

Name of Law Firm: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
City State Zip Code

Telephone Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_